

## **REMARKS**

In response to the above-identified final Office Action, the Applicants amend the application and seek reconsideration thereof. No claims have been added or cancelled. Claims 1, 24 and 30 have been amended. Accordingly, claims 1-4, 6, 11, 16-17 and 24-34 remain pending in the application.

### **Claims Rejection Under 35 U.S.C. §103**

Claims 1-3, 6, 16, 17 and 24-34 stand rejected under 35 U.S.C. § 103 as allegedly being unpatentable over U.S. Patent No. 5,797,126 issued to Helbling et al. (hereinafter “Helbling”) in view of U.S. Patent No. 6,223,166 issued to Kay (hereinafter “Kay”).

The Applicants submit herewith a Declaration under 37 CFR § 1.132 in order to rebut the Examiner’s *prima facie* case of obviousness. A Declaration from Milford Skane, CEO of MS Intergate, Inc., the assignee of the present application, is submitted herewith and asserts that the commercial success and copying of the product of the assignee, which embodies all of the elements of the present claims, are evidence that the claims are not obvious over Helbling in view of Kay. See MPEP § 716.03 and 716.06. The Applicants submit that the Declaration supports the assertion that it is not obvious to modify Helbling to be used in a wide area network context and further that it is not obvious to modify Helbling to provide information through a client node that is unaffiliated with the server and has no dedicated resident software, as recited in the amended independent claims.

The primary Declaration of Milford Skane sets forth that the product of the assignee corresponds in scope to the claims. The product, CyberSEATS™ was commercially successful prior to the copying of the claimed features by the competitors of the assignee. Commercial success was directly tied to the claimed elements. Therefore, the requisite nexus between the CyberSEATS™ product and the claimed invention exists.

The Declaration of Milford Skane is accompanied by exhibits that constitute actual proof and that are of direct probative value to the non-obviousness and thus rebut the *prima facie* case of obviousness. The Accompanying objective evidence includes a sales chart showing the ticket sales generated through the assignee's product and a set of accompanying Declarations from customers of the assignee establishing that the assignee's product, CyberSEATS™, was commercially successful because of the claimed elements of the present application. These additional Declarations are of probative value as evidence as is clearly set forth in *Ex parte* Anderson, 21 USPQ 2<sup>nd</sup> 1241, 1262 (BPAI 1991). Therefore, the Applicants believe that the submitted evidence establishes the commercial success and the copying of CyberSEATS™ rebut the *prima facie* case of obviousness for the pending claims. Accordingly, reconsideration and withdrawal of the obviousness rejection of claims 1-3, 6, 16, 17 and 23-24 are requested.

Claims 4 and 11 stand rejected under 35 U.S.C. § 103 as being unpatentable over Helbling in view of Kay and in further view of U.S. Patent No. 5,897,620 issued to Walker et al (hereinafter "Walker") or in view of U.S. Patent No. 6,301,574 issued to Thomas et al. (hereinafter "Thomas"). These claims depend from claims independent claim 1 and the Applicants believe that these claims also are not obvious for the reasons set forth in regard to independent claim 1. Accordingly, reconsideration and withdrawal of the obviousness rejection of these claims is requested.

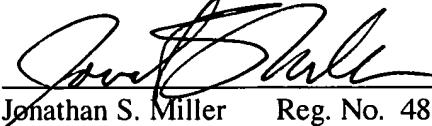
## CONCLUSION

In view of the forgoing, it is believed that all claims now pending are in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. Questions regarding this matter should be directed to the undersigned at (310) 207-3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

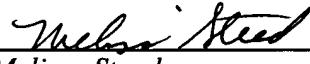
Dated: 11/16, 2006

  
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### CERTIFICATE OF MAILING

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*I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment; Commissioner of Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450:*

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Melissa Stead 11-16-06  
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